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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,143	09/30/2003	Young-Woo Lee	1293.1829	3823
21171	7590	11/30/2006		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER PSITOS, ARISTOTELIS M				
ART UNIT		PAPER NUMBER		
2627				

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,143

Applicant(s)

LEE ET AL.

Examiner

Aristotelis M. Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 9-14, 22-26 and 34-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15-21, 27-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' response of 10/5/06 has been considered with the following results.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 34-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims attempt to recite a data structure, however, such not claimed in a computer readable medium are descriptive material per se, see Warmerdam, 33F.3d at 1361.

Also, applicants are attempting to define functionally descriptive material, however, as disclosed there is no computer. What is disclosed is an optical recording/reproducing system – i.e., this is NOT A COMPUTER. Therefore, the claims are not drawn to the disclosed invention.

Claim 27 is drawn to a signal as disclosed by paragraph 47 of the specification, and rejected accordingly.

As far as the claims recite positive limitations, the following rejections are made.

Response to Arguments

Applicant's arguments filed 10/5/06 have been fully considered but they are not persuasive. The claimed invention fails to bring/enable a computer, but rather merely recites a desired medium with the method of claims 15+ incorporated therein.

As far as the claims recite positive limitations, the following rejections are made.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 15, 16, 18, 27 and 28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogiwara – US 6868051 or its equivalent EP 1191529.

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A recording medium type discriminating apparatus,
comprising:

abstract/title

see figs. 1 & 2

a radio frequency (RF) amplifier to output
a signal based on light reflected from a
recording medium;

description thereof

element 109

a wobble amplitude detector to detect an
amplitude of a wobble formed on the recording
medium based on an output signal of the RF amplifier; and

above figures/element 118

a system controller to discriminate a recording medium type
of the recording medium by
comparing the wobble amplitude with a reference value.

controller 105

As analyzed above the above system discriminates medium type by having the appropriate RF output signal detected, a wobble signal detector ability and appropriate comparison.

The method limitations of claim 15 are met when the above system operates.

With respect to claim 34, the record medium provided is interpreted to have computer readable code thereon.

With respect to claim 2, as disclosed such is present – push-pull wobble detector.

With respect to claims 3,4,5,16,18 and 28 and 30 such are inherently present, i.e., – see discussion starting at col. 3 line 13 as well as the description of figure 3.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 6-8, 17, 19-21, 29, 31-33 rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 2 above, and further in view of Morita.

With respect to the amplitude value regarding dvd-rw, such is further disclosed in Morita – see for instance col. 14, lines 34 plus.

With respect to dvd+rw, such is of course an agreed upon range (once noting the amplitude range for the dvd-rw discussed in Morita).

It would have been obvious to modify the base system of Ogihara with the above teaching from Morita in order to set an appropriate threshold value, or range of values that are indicative of the breaking point between the dvd-rw and dvd+rw amplitude. Selection of such is an optimization of the system and obvious predicated upon the well-known dvd-rw amplitude range.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627



AMP

- 1.
- 2.
- 3.
- 4.